

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0686-MWD-E TCEQ ID: RN103888004 CASE NO.: 25449
RESPONDENT NAME: OLMITO WATER SUPPLY CORPORATION

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Northeast of Olmito, approximately 9,200 feet south of State Highway 100 and 6,600 feet east of Farm-to-Market Road 803, Cameron County

TYPE OF OPERATION: Waste water treatment facility

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired June 1, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R12, (713) 422-8916

Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Water Enforcement Section, MC 219, (512) 239-2504

TCEQ Regional Contact: Mr. Jaime A. Garza, Harlingen Regional Office, MC R-15, (956) 430-6048

Respondent: Mr. Victor Trevino, General Manager, Olmito Water Supply Corporation, P.O. Box 36, Olmito, Texas 78575

Respondent's Attorney: Mr. Enrique Juarez, Esq., 212 N Arroyo Blvd, Ste A, Los Fresnos, Texas 78566

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review </p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 15, 2007</p> <p>Date of NOE Relating to this Case: June 11, 2007</p> <p>Background Facts: The EDRP was filed October 31, 2007. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved November 20, 2008.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation certifying compliance. The Respondent's TPDES permit expires July 1, 2010.</p> <p>MWD: Failed to comply with permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), TPDES Permit No. WQ0013817001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TCEQ Agreed Order docket number 2005-0853-MWD-E].</p>	<p>Initial Calculated Penalty: \$ 9,000</p> <p>Total Assessed: \$8,800</p> <p>Total Deferred: \$0</p> <p> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Paid to General Revenue: \$8,800</p> <p>The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: Twenty-one NOVs for same violations in the previous five-year period; failure to comply with a TCEQ Agreed Order.</p> <p>*Explanation for Reduction in Penalty: The penalty was reduced in consideration of the risk of litigation.</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days and on a quarterly basis thereafter until TPDES Permit No. WQ0013817001 is renewed or modified by the Commission, submit a progress report including documentation regarding actions taken towards compliance with the permitted effluent limits. 2. Within 365 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013817001.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 17, 2006

DATES	Assigned	23-Apr-2007	Screening	7-May-2007	EPA Due	
	PCW	31-Oct-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Olmito Water Supply Corporation		
Reg. Ent. Ref. No.	RN103888004		
Facility/Site Region	15- Harlingen	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	25449	No. of Violations	1	
Docket No.	2007-0686-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee Hupp	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	125% Enhancement	Subtotals 2, 3, & 7	\$5,000
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Notes	A 125% enhancement is recommended for having 21 NOVs for self-reported effluent data violations and one Agreed Order within the last five years.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
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Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes	The Respondent does not meet the good faith criteria.
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Total EB Amounts	\$3,860	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$17,700	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
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Final Penalty Amount	\$9,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,000
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$9,000
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Screening Date 7-May-2007

Docket No. 2007-0686-MWD-E

PCW

Respondent Olmito Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 25449

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN103888004

Media [Statute] Water Quality

Enf. Coordinator: Merrilee Hupp

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	21	105%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 125%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

A 125% enhancement is recommended for having 21 NOV's for self-reported effluent data violations and one Agreed Order within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 125%

Screening Date 7-May-2007

Docket No. 2007-0686-MWD-E

PCW

Respondent Olmito Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 25449

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN103888004

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a), TPDES Permit No. WQ0013817001, Effluent Limitations and Monitoring Requirement Nos. 1 and 2 and TCEQ Agreed Order Docket No. 2005-0853-MWD-E

Violation Description

Failed to comply with the permitted effluent limits as documented during a record review conducted on March 26, 2007. See attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was utilized to evaluate the values for NH3-N, CBOD and flow to determine whether the discharged amount of the pollutants (NH3-N and CBOD) exceeded the levels protective of human health or environmental receptors. The amounts discharged at the time of the violations were insignificant and did not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

311 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended from the first documented noncompliance (July 31, 2006) to the screening date (May 7, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,860

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent Olmito Water Supply Corporation
Case ID No. 25449
Reg. Ent. Reference No. RN103888004
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$15,000	31-Jul-2006	1-Nov-2009	3.3	\$163	\$3,258	\$3,420
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,700	31-Jul-2006	1-Nov-2009	3.3	\$440	n/a	\$440
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of evaluating the causes of the effluent noncompliances is \$5,000 and implementing necessary rehabilitation work is \$10,000. Estimated costs of additional operator training and process control testing is based on \$100 per month. Date required is first month of noncompliance and the final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$17,700

TOTAL

\$3,860

Compliance History

Customer/Respondent/Owner-Operator: CN600657548 Olmito Water Supply Corporation Classification: AVERAGE Rating: 2.83
Regulated Entity: RN103888004 OLMITO PLANT Classification: AVERAGE Site Rating: 3.86
ID Number(s): WASTEWATER PERMIT WQ0013817001
WASTEWATER EPA ID TX0113875
WASTEWATER PERMIT WQ0013817001
WASTEWATER PERMIT TPDES0113875
WASTEWATER PERMIT TX0113875
WASTEWATER LICENSING LICENSE WQ0013817001
Location: LOCATED NE OF OLMITO APPROX 9200 FT S OF SH 100
AND 6600 FT E OF FM 803 IN CAMERON CO TX

Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: May 21, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 31, 2002 to October 31, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee Hupp Phone: 512-239-4490

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 01/26/2006 ADMINORDER 2005-0853-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: EL&MR 1,3,6 & MRR 1 PERMIT

Description: Failure to submit monitoring results for NH3-N, CBOD, pH, TSS, and DO in the monthly DMRs.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Provisions, Section II, F PERMIT

Description: Failure to submit annual sludge reports for the monitoring period ending July, 31, 2004 by September 1, 2004.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 11/18/2002 (228949)

2 11/18/2002 (228948)

3 11/18/2002 (228947)

4 01/27/2003 (228955)

5 01/27/2003 (228953)
6 01/27/2003 (228951)
7 04/30/2003 (228943)
8 04/30/2003 (228941)
9 04/30/2003 (228939)
10 07/28/2003 (325088)
11 07/28/2003 (325089)
12 07/28/2003 (325090)
13 10/31/2003 (325091)
14 10/31/2003 (325092)
15 10/31/2003 (325093)
16 02/10/2004 (325094)
17 02/10/2004 (325095)
18 02/10/2004 (325096)
19 06/21/2004 (365680)
20 06/21/2004 (365681)
21 06/21/2004 (365682)
22 08/25/2004 (365683)
23 08/25/2004 (365684)
24 08/25/2004 (365685)
25 12/15/2004 (389310)
26 12/15/2004 (389311)
27 12/15/2004 (389312)
28 12/15/2004 (389313)
29 04/22/2005 (372072)
30 05/16/2005 (426887)
31 05/16/2005 (426888)
32 05/16/2005 (426889)
33 05/16/2005 (426890)
34 05/16/2005 (426891)
35 08/10/2005 (447067)
36 08/10/2005 (447068)
37 08/10/2005 (447069)
38 12/13/2005 (491228)
39 12/13/2005 (491229)
40 02/03/2006 (491227)
41 06/12/2006 (505692)
42 06/12/2006 (505693)
43 06/12/2006 (505694)
44 06/12/2006 (505695)
45 09/05/2006 (527952)
46 09/05/2006 (527953)
47 11/06/2006 (629886)
48 11/06/2006 (629888)
49 11/06/2006 (629890)
50 02/05/2007 (629892)
51 02/05/2007 (629894)
52 02/05/2007 (629895)
53 03/28/2007 (629880)
54 03/28/2007 (629881)
55 04/17/2007 (554999)
56 06/12/2007 (561080)
57 07/18/2007 (629882)
58 07/18/2007 (629883)

59 07/18/2007 (629884)
60 09/17/2007 (629887)
61 10/17/2007 (629885)
62 10/17/2007 (629889)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/31/2002 (228951)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2002 (228953)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2003 (325089)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2003 (325095)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 12/31/2003 (325096)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2004 (365680)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2004 (365682)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2004 (389310)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2004 (389312)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 10/31/2004 (389313)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2004 (426890)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 12/31/2004 (426891)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2005 (426887)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 02/28/2005 (426888)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2005 (426889)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2005 (491227)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2006 (505692)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2006 (629886)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2006 (629890)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2007 (629880)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2007 (629882)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OLMITO WATER SUPPLY
CORPORATION,
RN103888004**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0686-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Olmito Water Supply Corporation ("Olmito") under the authority of TEX. WATER CODE chs. 7 and 26, and 30 TEX. ADMIN. CODE chs. 70 and 305. The Executive Director of the TCEQ, represented by the Litigation Division, and Olmito, represented by Enrique Juarez, Esq., Attorney at Law, presented this agreement to the Commission.

Olmito understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Olmito agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Olmito.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Olmito owns and operates a waste water treatment facility located northeast of Olmito, approximately 9,200 feet south of State Highway 100 and 6,600 feet east of Farm-to-Market Road 803 in Cameron County, Texas (the "Facility").

2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
3. During a record review conducted on May 15, 2007, a TCEQ Harlingen Regional Office investigator documented that Olmito failed to comply with the permitted effluent limits:

Effluent Violation Table Olmito Water Supply Corporation TPDES Permit No. WQ0013817001 Docket No. 2007-0686-MWD-E					
Monitoring Period End Date	Permitted Effluent Limits				
	Ammonia Nitrogen Daily Average Concentration on 5 mg/l	Ammonia Nitrogen Daily Maximum 10 mg/l	CBOD Daily Average Concentration on 10 mg/l	CBOD Daily Average Loading 25 mg/l	CBOD Daily Maximum 63 lbs/day
07/31/2006	c	c	28	35.3	78
09/30/2006	c	10.9	15	c	c
01/31/2007	5.6	c	c	c	c
03/31/2007	c	c	14	c	c

mg/l = milligrams per liter	c = compliant	lbs/day = pounds per day	CBOD = carbonaceous biochemical demand
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CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Olmito is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. WATER CODE ch. 26, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3, Olmito failed to comply with the permitted effluent limits, in violation 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), TPDES Permit No. WQ0013817001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TCEQ Agreed Order docket number 2005-0853-MWD-E.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Olmito for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of eight thousand eight hundred dollars (\$8,800.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Olmito has paid eight thousand eight hundred dollars (\$8,800.00) of the administrative penalty.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Olmito is assessed an administrative penalty in the amount of eight thousand eight hundred dollars (\$8,800.00) as set forth in Conclusion of Law No. 4 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Olmito's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Olmito Water Supply Corporation; Docket No. 2007-0686-MWD-E; Enforcement ID No. 35449" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Olmito shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, and on a quarterly basis thereafter, until TPDES Permit No. WQ0013817001 is renewed or modified by the Commission, submit a progress report to the address in Ordering Provision No. 2.b. below, which shall include documentation regarding actions taken by Olmito towards compliance with the effluent limits of TPDES Permit No. WQ0013817001; and
- b. Within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013817001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

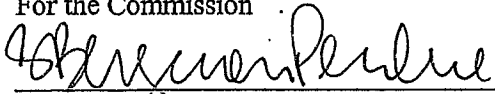
Jaime A. Garza, Water Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon Olmito. Olmito is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Olmito fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Olmito's failure to comply is not a violation of this Agreed Order. Olmito has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Olmito shall notify the Executive Director within seven days after Olmito becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Olmito shall be made in writing to the Executive Director. Extensions are not effective until Olmito receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Olmito if the Executive Director determines that Olmito has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against Olmito in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Olmito, or three days after the date on which the Commission mails notice of the Order to Olmito, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/4/2009

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Olmito Water Supply Corporation. I represent that I am authorized to agree to the attached Agreed Order on behalf of Olmito Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Olmito Water Supply Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by Olmito Water Supply Corporation;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Olmito Water Supply Corporation;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Olmito Water Supply Corporation; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

11/20/2008

Date

JUAN J. LOZANO

Name (printed or typed)

Authorized Representative

Olmito Water Supply Corporation

BOARD PRESIDENT

Title